

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CRIMINAL NO. 08-10337-RGS

UNITED STATES OF AMERICA

v.

BALDWIN IHENACHO, GLADYS IHENACHO,
ANDREW BERKE, et al.

MEMORANDUM AND ORDER ON
DEFENDANT'S MOTION TO SUPPRESS

June 23, 2011

STEARNS, D.J.

Defendant Baldwin Ihenacho is charged in a thirty-two count Third Superseding Indictment with Conspiracy to Distribute and to Possess with Intent to Distribute Controlled Substances, 21 U.S.C. § 846; Distribution of Controlled Substances, 21 U.S.C. 841(a)(1); Conspiracy to Distribute Misbranded Drugs While Held for Sale in Interstate Commerce, 18 U.S.C. § 371; Misbranding Drugs While Held for Sale After Shipment in Interstate Commerce, 21 U.S.C. §§ 331(k), 333(a)(2), 353(b)(1); Conspiracy to Commit International Money Laundering, 18 U.S.C. § 1956(h); International Money Laundering, 18 U.S.C. § 1956(a)(2); and Operating a Continuing Criminal Enterprise, 21 U.S.C. § 848.

Ihenacho seeks to suppress all statements he made following his arrest on

November 1, 2008. He contends that he was not advised of his *Miranda* rights until after government agents had finished interrogating him. The government, for its part, asserts that before any statement was taken from Ihenacho, he was given verbal *Miranda* warnings twice, at two different times and locations, and was also given an Advice of Rights form, which he signed and initialed.¹

In support of the motion, Ihenacho has filed an affidavit sworn under oath, stating: "I was not advised of my *Miranda* rights at the time of my arrest or any time prior to or during my interrogation back at the police station." Ihenacho Aff. ¶ 6. The government has provided affidavits from four law enforcement agents who were present during Ihenacho's arrest and/or interrogation. These affidavits, also submitted under oath, state that Ihenacho was, consistent with the government's opposition, given *Miranda* warnings prior to any questioning. The flat contradiction between Ihenacho's affidavit and those of the agents is a matter of deep concern to the court for the apparent reasons. The court will therefore schedule an evidentiary hearing to explore Ihenacho's allegations and their implications.

SO ORDERED.

/s/ Richard G. Stearns

¹ Both Ihenacho and the government have attached the signed Advice of Rights form to their respective pleadings. The form states that it was signed by Ihenacho on November 1, 2008 at 10:23am. *See* Def.'s Mem. at Ex. B; Pl.'s Mem. at Ex. 5.

UNITED STATES DISTRICT JUDGE